

Memorandum

TO: Gene *HP*
FROM: Joe *D*
DATE: March 15, 1989

The FY-89 SEA (D.3.) required AQD to,

"Develop enforcement follow-up guidelines for SO₂ and opacity emission violations...consistent with EPA Region VII policy, the EPA Technical Guidance on the 'Review and use of Excess Emission Reports' (EPA-340/1-84-025), and the SO₂ Continuous Compliance Strategy."

The AQD has, for the most part, been complying with the EPA documents.

The attached flow chart depicts follow-up and enforcement alternatives available to AQD as a result of the review of excess emission reports (EER). The chart is, in most instances, an accurate reflection of action taken by AQD. However, it is important to remember that as with all enforcement cases each is examined on an individual, case-by-case basis.

The actions described in the flow chart apply to both SO₂ and opacity EERs. AQD approaches the review of SO₂ and opacity EERs in the same manner. Likewise, follow-up and enforcement activities are similar in SO₂ and opacity cases.

The issue of SO₂ merits examination in a little greater detail. All SO₂ sources in Nebraska are subject to reporting requirements report based on coal sampling and analysis (CSA) programs. Because these sources burn low-sulfur western coal there is very little problem complying with the SO₂ standard.

The EPA SO₂ report review guidance suggests taking some type of action if excess emissions or monitor down time exceeds 1% of the unit's operational time. The AQD uses an action level criteria of 5% before initiating formal enforcement activities. Excursions between 1-5% will not likely result in formal enforcement action unless the excursions are part of a reoccurring pattern.

There is a question as to how the matter of voluntary compliance fits into this policy. It is a statutory requirement that NDEC make all reasonable efforts to obtain voluntary compliance prior to initiating enforcement proceedings. We have to perform a thorough file review to assure that this has been done. If there is no record of attempts at gaining voluntary compliance, a formal warning letter will be written before taking additional action.

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As a result of D.3. of the SEA, a more formal EER review procedure is being established. The individual assigned to review and summarize all EERs will:

- 1) Verify all reports are received within 30 days from the end of the quarter.
- 2) EERs will be reviewed and summaries written within 10 working days of receipt of the reports.
- 3) EER summaries will be forwarded to Region VII upon completion of all reviews.
- 4) EER data will be entered in the graphic summary at least annually.
- 5) If compliance problems surface, the graphic summary for that source will be prepared upon request.

These steps should improve the quality of AQD's EER review program.

/sm

FOLLOW-UP TO REVIEW OF EXCESS EMISSION REPORTS



